

Senate Bill No. 1475

Passed the Senate August 31, 2006

Secretary of the Senate

Passed the Assembly August 28, 2006

Chief Clerk of the Assembly

This bill was received by the Governor this _____ day
of _____, 2006, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

An act to amend Sections 725, 800, 1646.9, 2079, 2533, 4073, 4104, 4162, 4162.5, 4180, 4181, 4182, 4190, 4191, 4192, 4546, 4548, 4994, 4996.17, 4999, 4999.1, and 4999.4 of, to amend the heading of Article 4 (commencing with Section 4996) of Chapter 14 of Division 2 of, to add Chapter 13.5 (commencing with Section 4989.10) and Chapter 13.7 (commencing with Section 4990) to Division 2 of, to add Sections 4127.8, 4991, and 4991.2 to, to repeal Article 5 (commencing with Section 4986) of Chapter 13 and Article 1 (commencing with Section 4990) of Chapter 14 of Division 2 of, and to repeal Sections 4992.31, 4998.6, 4999.8, and 4999.9 of, the Business and Professions Code, relating to the healing arts, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

SB 1475, Committee on Business, Professions and Economic Development. Healing arts.

(1) Existing law makes repeated acts of clearly excessive prescribing or administering of drugs or treatment, repeated acts of clearly excessive use of diagnostic procedures, or repeated acts of clearly excessive use of diagnostic or treatment facilities unprofessional conduct for a physician and surgeon, dentist, podiatrist, psychologist, physical therapist, chiropractor, or optometrist. Existing law also requires various healing arts boards to separately create and maintain a central file, to provide an individual historical record for each licensee, of the names of all persons who hold a license, certificate, or similar authority from that board.

The bill would also make these provisions applicable to, respectively, speech-language pathologists and audiologists and the Speech-Language Pathology and Audiology Board.

(2) Existing law creates the Board of Behavioral Sciences and makes it responsible for the licensure and regulation of clinical social workers and educational psychologists. Under existing law, moneys received by the board are deposited into the Behavioral Sciences Fund and are continuously appropriated to

the board, other than the revenue from fines and penalties. Existing law makes a violation of the provisions regulating these practitioners a crime.

This bill would recast the provisions creating the board. The bill would name provisions regulating social workers the Clinical Social Worker Practice Act and would modify licensure requirements with respect to experience gained outside this state. The bill would also establish the Educational Psychologist Practice Act, which would continue the licensure and regulation of educational psychologists by the board. The bill would revise the provisions defining and regulating the practice of educational psychologists and would require licensees to complete continuing education as a prerequisite for licensure renewal. The bill would authorize the board to require those continuing education providers to pay fees to fund the administration of this requirement. Because the bill would direct their deposit into the Behavioral Sciences Fund, it would make an appropriation by increasing the amount of funds in a continuously appropriated fund. The bill would continue to make the violation of provisions regulating educational psychologists punishable as a crime and, because it would prohibit the commission of additional types of conduct, the bill would expand that crime and thereby impose a state-mandated local program.

(3) Existing law, the Pharmacy Law, provides for the licensure and regulation of pharmacists by the California State Board of Pharmacy and makes a violation of the act a crime.

Existing law authorizes a pharmacist filling a prescription order for a drug product prescribed by its trade or brand name to select another drug product with the same active chemical ingredients, as specified, and of the same generic drug name, as specified, of those drug products having the same active chemical ingredients. Existing law prohibits a selection from being made if the prescriber personally indicates, either orally or in his or her own handwriting, “Do not substitute,” or words of similar meaning.

This bill would specify that, with respect to an electronic data transmission prescription, a prescriber may indicate “Do not substitute,” or words of similar meaning, in the prescription as transmitted by electronic data, or may check a box marked on the prescription “Do not substitute.”

Existing law requires every pharmacy to have written policies and procedures for detecting certain impairments or drug-related acts among licensees employed by or with the pharmacy.

This bill would instead require every pharmacy to have written policies and procedures for addressing those impairments or acts by those licensees.

Existing law prohibits a pharmacy from compounding injectable sterile drug products in this state unless the pharmacy has obtained a license from the board.

This bill would authorize the board to issue a temporary license to compound injectable sterile drug products when the ownership of a pharmacy that is licensed to compound injectable sterile drug products is transferred from one person to another.

Existing law requires an applicant for a wholesaler license or a nonresident wholesaler license to submit a surety bond or other security to the board, as specified, with certain exceptions.

This bill would exempt a government-owned and operated wholesaler and a holder of a United States Food and Drug Administration biologics license application meeting certain criteria from that requirement.

Under existing law, specified clinics, including surgical clinics, may purchase drugs at wholesale for administration or dispensing to the clinic's patients. Existing law requires these clinics to maintain certain records for at least 7 years for inspection and to obtain a license from the board. Existing law specifies that each license is to be issued to a specific clinic and for a specific location. Existing law requires those clinics, when applying for a license, to show evidence that a professional director, as defined, is responsible for the provision of pharmacy services. Existing law also requires those clinics, other than surgical clinics, to retain a consulting pharmacist to perform specified tasks, including certifying in writing, at least twice a year, that the clinic is or is not operating in compliance with specified requirements, and requires the most recent certification to be submitted with the clinic's license renewal application.

This bill would instead require those clinics to maintain those records for at least 3 years and would require a separate license for each clinic location. The bill would expand the definition of "professional director" to include a dentist or podiatrist in certain circumstances. The bill would require a clinic to notify the board

of any change of address and, in the case of a surgical clinic, any proposed change in ownership, as specified, and any change in professional director. The bill would require surgical clinics also to retain a consulting pharmacist to perform those specified tasks. The bill would require a consulting pharmacist to provide the certification, with any recommended corrective actions, in writing quarterly and to keep the certification on file for 3 years. Because the bill would specify additional requirements under the Pharmacy Law, a violation of which would be a crime, it would impose a state-mandated local program. The bill would make other technical changes.

(4) Existing law, the Psychiatric Technicians Law, provides for the licensure and regulation of psychiatric technicians by the Board of Vocational Nursing and Psychiatric Technicians, imposes specified fees in connection with the issuance of licenses by the board, and authorizes the board to fix certain of those fees within specified minimums and maximums. Existing law requires the board to pay all revenue received into the State Treasury for credit to the Vocational Nursing and Psychiatric Technicians Fund. Existing law prohibits the board from maintaining a reserve balance greater than 3 months of the appropriated operating expenditures of the board in any fiscal year.

This bill would delete that prohibition and reduce the minimum amount of certain fees fixed by the board.

(5) Existing law provides for the registration of telephone medical advice services with the Telephone Medical Advice Services Bureau of the Department of Consumer Affairs, and prohibits a business entity from providing those services to a patient at a California address unless the person is registered. Under existing law, any business entity that submits proof of accreditation by certain specified health committees and organizations is deemed provisionally registered.

This bill would delete that provision and modify the application requirements for registration.

(6) Existing law, the Dental Practice Act, authorizes a physician and surgeon, until January 1, 2007, to administer general anesthesia to a dental patient under specified conditions in the office of a dentist who does not possess a general anesthesia permit.

This bill would extend the operation of those provisions until January 1, 2008.

(7) This bill would incorporate additional changes to Section 725 of the Business and Professions Code, proposed by AB 2198, to be operative only if AB 2198 and this bill are both chaptered and become effective on or before January 1, 2007, and this bill is chaptered last.

(8) This bill would incorporate additional changes to Section 4190 of the Business and Professions Code, proposed by AB 2308, to be operative only if AB 2308 and this bill are both chaptered and become effective on or before January 1, 2007, and this bill is chaptered last.

(9) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Appropriation: yes.

The people of the State of California do enact as follows:

SECTION 1. Section 725 of the Business and Professions Code is amended to read:

725. Repeated acts of clearly excessive prescribing or administering of drugs or treatment, repeated acts of clearly excessive use of diagnostic procedures, or repeated acts of clearly excessive use of diagnostic or treatment facilities as determined by the standard of the community of licensees is unprofessional conduct for a physician and surgeon, dentist, podiatrist, psychologist, physical therapist, chiropractor, optometrist, speech-language pathologist, or audiologist. However, pursuant to Section 2241.5, no physician and surgeon in compliance with the California Intractable Pain Treatment Act shall be subject to disciplinary action for lawfully prescribing or administering controlled substances in the course of treatment of a person for intractable pain.

Any person who engages in repeated acts of clearly excessive prescribing or administering of drugs or treatment is guilty of a misdemeanor and shall be punished by a fine of not less than one

hundred dollars (\$100) nor more than six hundred dollars (\$600), or by imprisonment for a term of not less than 60 days nor more than 180 days, or by both the fine and imprisonment.

SEC. 1.5. Section 725 of the Business and Professions Code is amended to read:

725. (a) Repeated acts of clearly excessive prescribing, furnishing, dispensing or administering of drugs or treatment, repeated acts of clearly excessive use of diagnostic procedures, or repeated acts of clearly excessive use of diagnostic or treatment facilities as determined by the standard of the community of licensees is unprofessional conduct for a physician and surgeon, dentist, podiatrist, psychologist, physical therapist, chiropractor, optometrist, speech-language pathologist, or audiologist.

(b) Any person who engages in repeated acts of clearly excessive prescribing or administering of drugs or treatment is guilty of a misdemeanor and shall be punished by a fine of not less than one hundred dollars (\$100) nor more than six hundred dollars (\$600), or by imprisonment for a term of not less than 60 days nor more than 180 days, or by both that fine and imprisonment.

(c) A practitioner who has a medical basis for prescribing, furnishing, dispensing, or administering dangerous drugs or prescription controlled substances shall not be subject to disciplinary action or prosecution under this section.

(d) No physician and surgeon shall be subject to disciplinary action pursuant to this section for treating intractable pain in compliance with Section 2241.5.

SEC. 2. Section 800 of the Business and Professions Code is amended to read:

800. (a) The Medical Board of California, the Board of Psychology, the Dental Board of California, the Osteopathic Medical Board of California, the State Board of Chiropractic Examiners, the Board of Registered Nursing, the Board of Vocational Nursing and Psychiatric Technicians, the State Board of Optometry, the Veterinary Medical Board, the Board of Behavioral Sciences, the Physical Therapy Board of California, the California State Board of Pharmacy, and the Speech-Language Pathology and Audiology Board shall each separately create and maintain a central file of the names of all

persons who hold a license, certificate, or similar authority from that board. Each central file shall be created and maintained to provide an individual historical record for each licensee with respect to the following information:

(1) Any conviction of a crime in this or any other state that constitutes unprofessional conduct pursuant to the reporting requirements of Section 803.

(2) Any judgment or settlement requiring the licensee or his or her insurer to pay any amount of damages in excess of three thousand dollars (\$3,000) for any claim that injury or death was proximately caused by the licensee's negligence, error or omission in practice, or by rendering unauthorized professional services, pursuant to the reporting requirements of Section 801 or 802.

(3) Any public complaints for which provision is made pursuant to subdivision (b).

(4) Disciplinary information reported pursuant to Section 805.

(b) Each board shall prescribe and promulgate forms on which members of the public and other licensees or certificate holders may file written complaints to the board alleging any act of misconduct in, or connected with, the performance of professional services by the licensee.

If a board, or division thereof, a committee, or a panel has failed to act upon a complaint or report within five years, or has found that the complaint or report is without merit, the central file shall be purged of information relating to the complaint or report.

Notwithstanding this subdivision, the Board of Psychology, the Board of Behavioral Sciences, and the Respiratory Care Board of California shall maintain complaints or reports as long as each board deems necessary.

(c) The contents of any central file that are not public records under any other provision of law shall be confidential except that the licensee involved, or his or her counsel or representative, shall have the right to inspect and have copies made of his or her complete file except for the provision that may disclose the identity of an information source. For the purposes of this section, a board may protect an information source by providing a copy of the material with only those deletions necessary to protect the identity of the source or by providing a

comprehensive summary of the substance of the material. Whichever method is used, the board shall ensure that full disclosure is made to the subject of any personal information that could reasonably in any way reflect or convey anything detrimental, disparaging, or threatening to a licensee's reputation, rights, benefits, privileges, or qualifications, or be used by a board to make a determination that would affect a licensee's rights, benefits, privileges, or qualifications. The information required to be disclosed pursuant to Section 803.1 shall not be considered among the contents of a central file for the purposes of this subdivision.

The licensee may, but is not required to, submit any additional exculpatory or explanatory statement or other information that the board shall include in the central file.

Each board may permit any law enforcement or regulatory agency when required for an investigation of unlawful activity or for licensing, certification, or regulatory purposes to inspect and have copies made of that licensee's file, unless the disclosure is otherwise prohibited by law.

These disclosures shall effect no change in the confidential status of these records.

SEC. 3. Section 1646.9 of the Business and Professions Code is amended to read:

1646.9. (a) Notwithstanding any other provision of law, including, but not limited to, Section 1646.1, a physician and surgeon licensed pursuant to Chapter 5 (commencing with Section 2000) may administer general anesthesia in the office of a licensed dentist for dental patients, without regard to whether the dentist possesses a permit issued pursuant to this article, if all of the following conditions are met:

- (1) The physician and surgeon possesses a current license in good standing to practice medicine in this state.
- (2) The physician and surgeon holds a valid general anesthesia permit issued by the Dental Board of California pursuant to subdivision (b).

(b) (1) A physician and surgeon who desires to administer general anesthesia as set forth in subdivision (a) shall apply to the Dental Board of California on an application form prescribed by the board and shall submit all of the following:

(A) The payment of an application fee prescribed by this article.

(B) Evidence satisfactory to the Medical Board of California showing that the applicant has successfully completed a postgraduate residency training program in anesthesiology that is recognized by the American Council on Graduate Medical Education, as set forth in Section 2079.

(C) Documentation demonstrating that all equipment and drugs required by the Dental Board of California are possessed by the applicant and shall be available for use in any dental office in which he or she administers general anesthesia.

(D) Information relative to the current membership of the applicant on hospital medical staffs.

(2) Prior to issuance or renewal of a permit pursuant to this section, the Dental Board of California may, at its discretion, require an onsite inspection and evaluation of the facility, equipment, personnel, including, but not limited to, the physician and surgeon, and procedures utilized. At least one of the persons evaluating the procedures utilized by the physician and surgeon shall be a licensed physician and surgeon expert in outpatient general anesthesia who has been authorized or retained under contract by the Dental Board of California for this purpose.

(3) The permit of any physician and surgeon who has failed an onsite inspection and evaluation shall be automatically suspended 30 days after the date on which the board notifies the physician and surgeon of the failure unless within that time period the physician and surgeon has retaken and passed an onsite inspection and evaluation. Every physician and surgeon issued a permit under this article shall have an onsite inspection and evaluation at least once every six years. Refusal to submit to an inspection shall result in automatic denial or revocation of the permit.

(c) This section shall remain in effect until January 1, 2008, and as of that date is repealed, unless a later enacted statute, which is enacted on or before January 1, 2008, deletes or extends that date.

SEC. 4. Section 2079 of the Business and Professions Code is amended to read:

2079. (a) A physician and surgeon who desires to administer general anesthesia in the office of a dentist pursuant to Section

1646.9, shall provide the Medical Board of California with a copy of the application submitted to the Dental Board of California pursuant to subdivision (b) of Section 1646.9 and a fee established by the board not to exceed the costs of processing the application as provided in this section.

(b) The Medical Board of California shall review the information submitted and take action as follows:

(1) Inform the Dental Board of California whether the physician and surgeon has a current license in good standing to practice medicine in this state.

(2) Verify whether the applicant has successfully completed a postgraduate residency training program in anesthesiology and whether the program has been recognized by the American Council on Graduate Medical Education.

(3) Inform the Dental Board of California whether the Medical Board of California has determined that the applicant has successfully completed the postgraduate residency training program in anesthesiology recognized by the American Council on Graduate Medicine.

(c) This section shall remain in effect until January 1, 2008, and as of that date is repealed, unless a later enacted statute, which is enacted on or before January 1, 2008, deletes or extends that date.

SEC. 5. Section 2533 of the Business and Professions Code is amended to read:

2533. The board may refuse to issue, or issue subject to terms and conditions, a license on the grounds specified in Section 480, or may suspend, revoke, or impose terms and conditions upon the license of any licensee if he or she has been guilty of unprofessional conduct. Unprofessional conduct shall include, but shall not be limited to, the following:

(a) Conviction of a crime substantially related to the qualifications, functions, and duties of a speech-language pathologist or audiologist, as the case may be. The record of the conviction shall be conclusive evidence thereof.

(b) Securing a license by fraud or deceit.

(c) (1) The use or administering to himself or herself, of any controlled substance; (2) the use of any of the dangerous drugs specified in Section 4022, or of alcoholic beverages, to the extent, or in a manner as to be dangerous or injurious to the

licensee, to any other person, or to the public, or to the extent that the use impairs the ability of the licensee to practice speech-language pathology or audiology safely; (3) more than one misdemeanor or any felony involving the use, consumption, or self-administration of any of the substances referred to in this section; or (4) any combination of paragraphs (1), (2), or (3). The record of the conviction shall be conclusive evidence of unprofessional conduct.

(d) Advertising in violation of Section 17500. Advertising an academic degree that was not validly awarded or earned under the laws of this state or the applicable jurisdiction in which it was issued is deemed to constitute a violation of Section 17500.

(e) Committing a dishonest or fraudulent act which is substantially related to the qualifications, functions, or duties of a licensee.

(f) Incompetence or gross negligence in the practice of speech-language pathology or audiology.

(g) Other acts that have endangered or are likely to endanger the health, welfare, and safety of the public.

SEC. 6. Section 4073 of the Business and Professions Code is amended to read:

4073. (a) A pharmacist filling a prescription order for a drug product prescribed by its trade or brand name may select another drug product with the same active chemical ingredients of the same strength, quantity, and dosage form, and of the same generic drug name as determined by the United States Adopted Names (USAN) and accepted by the federal Food and Drug Administration (FDA), of those drug products having the same active chemical ingredients.

(b) In no case shall a selection be made pursuant to this section if the prescriber personally indicates, either orally or in his or her own handwriting, "Do not substitute," or words of similar meaning. Nothing in this subdivision shall prohibit a prescriber from checking a box on a prescription marked "Do not substitute"; provided that the prescriber personally initials the box or checkmark. To indicate that a selection shall not be made pursuant to this section for an electronic data transmission prescription as defined in subdivision (c) of Section 4040, a prescriber may indicate "Do not substitute," or words of similar meaning, in the prescription as transmitted by electronic data, or

may check a box marked on the prescription “Do not substitute.” In either instance, it shall not be required that the prohibition on substitution be manually initialed by the prescriber.

(c) Selection pursuant to this section is within the discretion of the pharmacist, except as provided in subdivision (b). The person who selects the drug product to be dispensed pursuant to this section shall assume the same responsibility for selecting the dispensed drug product as would be incurred in filling a prescription for a drug product prescribed by generic name. There shall be no liability on the prescriber for an act or omission by a pharmacist in selecting, preparing, or dispensing a drug product pursuant to this section. In no case shall the pharmacist select a drug product pursuant to this section unless the drug product selected costs the patient less than the prescribed drug product. Cost, as used in this subdivision, is defined to include any professional fee that may be charged by the pharmacist.

(d) This section shall apply to all prescriptions, including those presented by or on behalf of persons receiving assistance from the federal government or pursuant to the California Medical Assistance Program set forth in Chapter 7 (commencing with Section 14000) of Part 3 of Division 9 of the Welfare and Institutions Code.

(e) When a substitution is made pursuant to this section, the use of the cost-saving drug product dispensed shall be communicated to the patient and the name of the dispensed drug product shall be indicated on the prescription label, except where the prescriber orders otherwise.

SEC. 7. Section 4104 of the Business and Professions Code is amended to read:

4104. (a) Every pharmacy shall have in place procedures for taking action to protect the public when a licensed individual employed by or with the pharmacy is discovered or known to be chemically, mentally, or physically impaired to the extent it affects his or her ability to practice the profession or occupation authorized by his or her license, or is discovered or known to have engaged in the theft, diversion, or self-use of dangerous drugs.

(b) Every pharmacy shall have written policies and procedures for addressing chemical, mental, or physical impairment, as well

as theft, diversion, or self-use of dangerous drugs, among licensed individuals employed by or with the pharmacy.

(c) Every pharmacy shall report to the board, within 30 days of the receipt or development of the following information with regard to any licensed individual employed by or with the pharmacy:

(1) Any admission by a licensed individual of chemical, mental, or physical impairment affecting his or her ability to practice.

(2) Any admission by a licensed individual of theft, diversion, or self-use of dangerous drugs.

(3) Any video or documentary evidence demonstrating chemical, mental, or physical impairment of a licensed individual to the extent it affects his or her ability to practice.

(4) Any video or documentary evidence demonstrating theft, diversion, or self-use of dangerous drugs by a licensed individual.

(5) Any termination based on chemical, mental, or physical impairment of a licensed individual to the extent it affects his or her ability to practice.

(6) Any termination of a licensed individual based on theft, diversion, or self-use of dangerous drugs.

(d) Anyone making a report authorized or required by this section shall have immunity from any liability, civil or criminal, that might otherwise arise from the making of the report. Any participant shall have the same immunity with respect to participation in any administrative or judicial proceeding resulting from the report.

SEC. 8. Section 4127.8 is added to the Business and Professions Code, to read:

4127.8. The board may, at its discretion, issue a temporary license to compound injectable sterile drug products, when the ownership of a pharmacy that is licensed to compound injectable sterile drug products is transferred from one person to another, upon the conditions and for any periods of time as the board determines to be in the public interest. A temporary license fee shall be five hundred dollars (\$500) or another amount established by the board not to exceed the annual fee for renewal of a license to compound injectable sterile drug products. When needed to protect public safety, a temporary license may be

issued for a period not to exceed 180 days, and may be issued subject to terms and conditions the board deems necessary. If the board determines a temporary license was issued by mistake or denies the application for a permanent license, the temporary license shall terminate upon either personal service of the notice of termination upon the licenseholder or service by certified mail, return receipt requested at the licenseholder's address of record with the board, whichever comes first. Neither for purposes of retaining a temporary license nor for purposes of any disciplinary or license denial proceeding before the board shall the temporary licenseholder be deemed to have a vested property right or interest in the license.

SEC. 9. Section 4162 of the Business and Professions Code is amended to read:

4162. (a) (1) An applicant, that is not a government-owned and operated wholesaler, for the issuance or renewal of a wholesaler license shall submit a surety bond of one hundred thousand dollars (\$100,000) or other equivalent means of security acceptable to the board payable to the Pharmacy Board Contingent Fund. The purpose of the surety bond is to secure payment of any administrative fine imposed by the board and any cost recovery ordered pursuant to Section 125.3.

(2) For purposes of paragraph (1), the board may accept a surety bond less than one hundred thousand dollars (\$100,000) if the annual gross receipts of the previous tax year for the wholesaler is ten million dollars (\$10,000,000) or less, in which case the surety bond shall be twenty-five thousand dollars (\$25,000).

(3) A person to whom an approved new drug application has been issued by the United States Food and Drug Administration who engages in the wholesale distribution of only the dangerous drug specified in the new drug application, and is licensed or applies for licensure as a wholesaler, shall not be required to post a surety bond as provided in paragraph (1).

(4) For licensees subject to paragraph (2) or (3), the board may require a bond up to one hundred thousand dollars (\$100,000) for any licensee who has been disciplined by any state or federal agency or has been issued an administrative fine pursuant to this chapter.

(b) The board may make a claim against the bond if the licensee fails to pay a fine within 30 days after the order imposing the fine, or costs become final.

(c) A single surety bond or other equivalent means of security acceptable to the board shall satisfy the requirement of subdivision (a) for all licensed sites under common control as defined in Section 4126.5.

(d) This section shall become operative on January 1, 2006, and shall remain in effect only until January 1, 2011, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2011, deletes or extends those dates.

SEC. 10. Section 4162.5 of the Business and Professions Code is amended to read:

4162.5. (a) (1) An applicant for the issuance or renewal of a nonresident wholesaler license shall submit a surety bond of one hundred thousand dollars (\$100,000), or other equivalent means of security acceptable to the board, such as an irrevocable letter of credit, or a deposit in a trust account or financial institution, payable to the Pharmacy Board Contingent Fund. The purpose of the surety bond is to secure payment of any administrative fine imposed by the board and any cost recovery ordered pursuant to Section 125.3.

(2) For purpose of paragraph (1), the board may accept a surety bond less than one hundred thousand dollars (\$100,000) if the annual gross receipts of the previous tax year for the nonresident wholesaler is ten million dollars (\$10,000,000) or less in which the surety bond shall be twenty-five thousand dollars (\$25,000).

(3) For applicants who satisfy paragraph (2), the board may require a bond up to one hundred thousand dollars (\$100,000) for any nonresident wholesaler who has been disciplined by any state or federal agency or has been issued an administrative fine pursuant to this chapter.

(4) A person to whom an approved new drug application or a biologics license application has been issued by the United States Food and Drug Administration who engages in the wholesale distribution of only the dangerous drug specified in the new drug application or biologics license application, and is licensed or applies for licensure as a nonresident wholesaler, shall not be required to post a surety bond as provided in this section.

(b) The board may make a claim against the bond if the licensee fails to pay a fine within 30 days of the issuance of the fine or when the costs become final.

(c) A single surety bond or other equivalent means of security acceptable to the board shall satisfy the requirement of subdivision (a) for all licensed sites under common control as defined in Section 4126.5.

(d) This section shall become operative on January 1, 2006, and shall become inoperative and is repealed on, January 1, 2011, unless a later enacted statute, that is enacted before January 1, 2011, deletes or extends those dates.

SEC. 11. Section 4180 of the Business and Professions Code is amended to read:

4180. (a) (1) Notwithstanding any provision of this chapter, any of the following clinics may purchase drugs at wholesale for administration or dispensing, under the direction of a physician and surgeon, to patients registered for care at the clinic:

(A) A licensed nonprofit community clinic or free clinic as defined in paragraph (1) of subdivision (a) of Section 1204 of the Health and Safety Code.

(B) A primary care clinic owned or operated by a county as referred to in subdivision (b) of Section 1206 of the Health and Safety Code.

(C) A clinic operated by a federally recognized Indian tribe or tribal organization as referred to in subdivision (c) of Section 1206 of the Health and Safety Code.

(D) A clinic operated by a primary care community or free clinic, operated on separate premises from a licensed clinic, and that is open no more than 20 hours per week as referred to in subdivision (h) of Section 1206 of the Health and Safety Code.

(E) A student health center clinic operated by a public institution of higher education as referred to in subdivision (j) of Section 1206 of the Health and Safety Code.

(F) A nonprofit multispecialty clinic as referred to in subdivision (l) of Section 1206 of the Health and Safety Code.

(2) The clinic shall keep records of the kind and amounts of drugs purchased, administered, and dispensed, and the records shall be available and maintained for a minimum of three years for inspection by all properly authorized personnel.

(b) No clinic shall be entitled to the benefits of this section until it has obtained a license from the board. A separate license shall be required for each clinic location. A clinic shall notify the board of any change in the clinic's address on a form furnished by the board.

SEC. 12. Section 4181 of the Business and Professions Code is amended to read:

4181. (a) Prior to the issuance of a clinic license authorized under Section 4180, the clinic shall comply with all applicable laws and regulations of the State Department of Health Services relating to the drug distribution service to insure that inventories, security procedures, training, protocol development, recordkeeping, packaging, labeling, dispensing, and patient consultation occur in a manner that is consistent with the promotion and protection of the health and safety of the public. The policies and procedures to implement the laws and regulations shall be developed and approved by the consulting pharmacist, the professional director, and the clinic administrator.

(b) The dispensing of drugs in a clinic shall be performed only by a physician, a pharmacist, or other person lawfully authorized to dispense drugs, and only in compliance with all applicable laws and regulations.

SEC. 13. Section 4182 of the Business and Professions Code is amended to read:

4182. (a) Each clinic that makes an application for a license under Section 4180 shall show evidence that the professional director is responsible for the safe, orderly, and lawful provision of pharmacy services. In carrying out the professional director's responsibilities, a consulting pharmacist shall be retained to approve the policies and procedures in conjunction with the professional director and the administrator. In addition, the consulting pharmacist shall be required to visit the clinic regularly and at least quarterly. However, nothing in this section shall prohibit the consulting pharmacist from visiting more than quarterly to review the application of policies and procedures based on the agreement of all the parties approving the policies and procedures.

(b) The consulting pharmacist shall certify in writing quarterly that the clinic is, or is not, operating in compliance with the

requirements of this article. Each completed written certification shall be kept on file in the clinic for three years and shall include recommended corrective actions, if appropriate.

(c) For the purposes of this article, “professional director” means a physician and surgeon acting in his or her capacity as medical director or a dentist or podiatrist acting in his or her capacity as a director in a clinic where only dental or podiatric services are provided.

(d) Licensed clinics shall notify the board within 30 days of any change in professional director on a form furnished by the board.

SEC. 14. Section 4190 of the Business and Professions Code is amended to read:

4190. (a) Notwithstanding any provision of this chapter, a surgical clinic, as defined in paragraph (1) of subdivision (b) of Section 1204 of the Health and Safety Code may purchase drugs at wholesale for administration or dispensing, under the direction of a physician, to patients registered for care at the clinic, as provided in subdivision (b). The clinic shall keep records of the kind and amounts of drugs purchased, administered, and dispensed, and the records shall be available and maintained for a minimum of three years for inspection by all properly authorized personnel.

(b) The drug distribution service of a surgical clinic shall be limited to the use of drugs for administration to the patients of the surgical clinic and to the dispensing of drugs for the control of pain and nausea for patients of the clinic. Drugs shall not be dispensed in an amount greater than that required to meet the patient’s needs for 72 hours. Drugs for administration shall be those drugs directly applied, whether by injection, inhalation, ingestion, or any other means, to the body of a patient for his or her immediate needs.

(c) No surgical clinic shall operate without a license issued by the board nor shall it be entitled to the benefits of this section until it has obtained a license from the board. A separate license shall be required for each clinic location. A clinic shall notify the board of any change in the clinic’s address on a form furnished by the board.

(d) Any proposed change in ownership or beneficial interest in the licensee shall be reported to the board, on a form to be

furnished by the board, at least 30 days prior to the execution of any agreement to purchase, sell, exchange, gift or otherwise transfer any ownership or beneficial interest or prior to any transfer of ownership or beneficial interest, whichever occurs earlier.

SEC. 14.5. Section 4190 of the Business and Professions Code is amended to read:

4190. (a) Notwithstanding any provision of this chapter, an ambulatory surgical center, licensed pursuant to paragraph (1) of subdivision (b) of Section 1204 of the Health and Safety Code, accredited by an accreditation agency pursuant to Section 1248 of the Health and Safety Code, or certified to participate in the Medicare Program under Title XVIII (42 U.S.C. Sec. 1395 et seq.) of the federal Social Security Act, may purchase drugs at wholesale for administration or dispensing, under the direction of a physician, to patients registered for care at the center, as provided in subdivision (b). The center shall keep records of the kind and amounts of drugs purchased, administered, and dispensed, and the records shall be available and maintained for a minimum of three years for inspection by all properly authorized personnel.

(b) The drug distribution service of an ambulatory surgical center shall be limited to the use of drugs for administration to the patients of the ambulatory surgical center and to the dispensing of drugs for the control of pain and nausea for patients of the center. Drugs shall not be dispensed in an amount greater than that required to meet the patient's needs for 72 hours. Drugs for administration shall be those drugs directly applied, whether by injection, inhalation, ingestion, or any other means, to the body of a patient for his or her immediate needs.

(c) No ambulatory surgical center shall operate without a license issued by the board nor shall it be entitled to the benefits of this section until it has obtained a license from the board. A separate license shall be required for each center location. A center shall notify the board of any change in the center's address on a form furnished by the board.

(d) Any proposed change in ownership or beneficial interest in the licensee shall be reported to the board, on a form to be furnished by the board, at least 30 days prior to the execution of any agreement to purchase, sell, exchange, gift or otherwise

transfer any ownership or beneficial interest or prior to any transfer of ownership or beneficial interest, whichever occurs earlier.

SEC. 15. Section 4191 of the Business and Professions Code is amended to read:

4191. (a) Prior to the issuance of a clinic license authorized under this article, the clinic shall comply with all applicable laws and regulations of the State Department of Health Services and the board relating to drug distribution to insure that inventories, security procedures, training, protocol development, recordkeeping, packaging, labeling, dispensing, and patient consultation are carried out in a manner that is consistent with the promotion and protection of the health and safety of the public. The policies and procedures to implement the laws and regulations shall be developed and approved by the consulting pharmacist, the professional director, and the clinic administrator.

(b) The dispensing of drugs in a clinic that has received a license under this article shall be performed only by a physician, a pharmacist, or other person lawfully authorized to dispense drugs, and only in compliance with all applicable laws and regulations.

SEC. 16. Section 4192 of the Business and Professions Code is amended to read:

4192. (a) Each clinic that makes an application for a license under this article shall show evidence that the professional director is responsible for the safe, orderly, and lawful provision of pharmacy services. In carrying out the professional director's responsibilities, a consulting pharmacist shall be retained to approve the policies and procedures in conjunction with the professional director and the administrator. In addition, the consulting pharmacist shall be required to visit the clinic regularly and at least quarterly. However, nothing in this section shall prohibit the consulting pharmacist from visiting more than quarterly to review the application of policies and procedures based on the agreement of all the parties approving the policies and procedures.

(b) The consulting pharmacist shall certify in writing quarterly that the clinic is, or is not, operating in compliance with the requirements of this article. Each completed written certification

shall be kept on file in the clinic for three years and shall include recommended corrective actions, if appropriate.

(c) For the purposes of this article, “professional director” means a physician and surgeon acting in his or her capacity as medical director or a dentist or podiatrist acting in his or her capacity as a director in a clinic where only dental or podiatric services are provided.

(d) Licensed clinics shall notify the board within 30 days of any change in professional director on a form furnished by the board.

SEC. 17. Section 4546 of the Business and Professions Code is amended to read:

4546. The board shall report each month to the Controller the amount and source of all revenue received by it pursuant to this chapter and at the same time pay the entire amount thereof into the State Treasury for credit to the Vocational Nursing and Psychiatric Technicians Fund.

SEC. 18. Section 4548 of the Business and Professions Code is amended to read:

4548. The amount of the fees prescribed by this chapter in connection with the issuance of licenses under its provisions shall be according to the following schedule:

(a) The fee to be paid upon the filing of an application shall be in an amount not less than one hundred dollars (\$100), and may be fixed by the board at an amount no more than one hundred fifty dollars (\$150).

(b) The fee to be paid for taking each examination shall be the actual cost to purchase an examination from a vendor approved by the board.

(c) The fee to be paid for any examination after the first shall be in an amount of not less than one hundred dollars (\$100), and may be fixed by the board at an amount no more than one hundred fifty dollars (\$150).

(d) The biennial renewal fee to be paid upon the filing of an application for renewal shall be in an amount not less than two hundred dollars (\$200), and may be fixed by the board at an amount no more than three hundred dollars (\$300).

(e) Notwithstanding Section 163.5, the delinquency fee for failure to pay the biennial renewal fee within the prescribed time shall be in an amount not less than one hundred dollars (\$100)

and may be fixed by the board at not more than 50 percent of the regular renewal fee and in no case more than one hundred fifty dollars (\$150).

(f) The initial license fee is an amount equal to the biennial renewal fee in effect on the date the application for the license is filed.

(g) The fee to be paid for an interim permit shall be in an amount no less than twenty dollars (\$20) and may be fixed by the board at an amount no more than fifty dollars (\$50).

(h) The fee to be paid for a duplicate license shall be in an amount not less than twenty dollars (\$20) and may be fixed by the board at an amount no more than fifty dollars (\$50).

(i) The fee to be paid for processing endorsement papers to other states shall be in an amount not less than twenty dollars (\$20) and may be fixed by the board at an amount no more than fifty dollars (\$50).

(j) The fee to be paid for postlicensure certification in blood withdrawal shall be in an amount not less than twenty dollars (\$20) and may be fixed by the board at an amount no more than fifty dollars (\$50).

(k) The biennial fee to be paid upon the filing of an application for renewal for a provider of an approved continuing education course or a course to meet the certification requirements for blood withdrawal shall be in an amount not less than one hundred fifty dollars (\$150), and may be fixed by the board at an amount no more than two hundred dollars (\$200).

SEC. 19. Article 5 (commencing with Section 4986) of Chapter 13 of Division 2 of the Business and Professions Code is repealed.

SEC. 20. Chapter 13.5 (commencing with Section 4989.10) is added to Division 2 of the Business and Professions Code, to read:

CHAPTER 13.5. LICENSED EDUCATIONAL PSYCHOLOGISTS

Article 1. General

4989.10. This chapter shall be known, and may be cited as, the Educational Psychologist Practice Act.

4989.12. The Board of Behavioral Sciences shall administer and enforce the provisions of this chapter. For the purposes of this chapter it shall be designated as the board.

4989.14. The practice of educational psychology is the performance of any of the following professional functions pertaining to academic learning processes or the educational system or both:

- (a) Educational evaluation.
- (b) Diagnosis of psychological disorders related to academic learning processes.
- (c) Administration of diagnostic tests related to academic learning processes including tests of academic ability, learning patterns, achievement, motivation, and personality factors.
- (d) Interpretation of diagnostic tests related to academic learning processes including tests of academic ability, learning patterns, achievement, motivation, and personality factors.
- (e) Providing psychological counseling for individuals, groups, and families.
- (f) Consultation with other educators and parents on issues of social development and behavioral and academic difficulties.
- (g) Conducting psychoeducational assessments for the purposes of identifying special needs.
- (h) Developing treatment programs and strategies to address problems of adjustment.
- (i) Coordinating intervention strategies for management of individual crises.

4989.16. (a) A person appropriately credentialed by the Commission on Teacher Credentialing may perform the functions authorized by that credential in a public school without a license issued under this chapter by the board.

(b) Nothing in this chapter shall be construed to constrict, limit, or withdraw the Medical Practice Act (Chapter 5 (commencing with Section 2000)), the Nursing Practice Act (Chapter 6 (commencing with Section 2700)), the Psychology Licensing Law (Chapter 6.6 (commencing with Section 2900)), the Marriage and Family Therapist Practice Act (Chapter 13 (commencing with Section 4980)), or the Clinical Social Worker Practice Act (Chapter 14 (commencing with Section 4991)).

4989.18. The board may, by rules or regulations, adopt, amend, or repeal rules of professional conduct appropriate to the

establishment and maintenance of a high standard of integrity and dignity in the profession, provided those rules or regulations are not inconsistent with Section 4989.54. Every person licensed under this chapter shall be governed by those rules of professional conduct.

Article 2. Licensure

4989.20. (a) The board may issue a license as an educational psychologist if the applicant satisfies, with proof satisfactory to the board, the following requirements:

(1) Possession of, at minimum, a master's degree in psychology, educational psychology, school psychology, or counseling and guidance. This degree shall be obtained from an educational institution approved by the board according to the regulations adopted under this chapter.

(2) Attainment of 18 years of age.

(3) No commission of an act or crime constituting grounds for denial of licensure under Section 480.

(4) Successful completion of 60 semester hours of postgraduate work in pupil personnel services.

(5) Completion of three years of full-time experience as a credentialed school psychologist in the public schools. At least one year of the experience required by this paragraph shall be supervised professional experience in an accredited school psychology program or obtained under the direction of a licensed psychologist or a licensed educational psychologist. The applicant shall not be credited with experience obtained more than six years prior to filing the application for licensure.

(6) Passage of an examination specified by the board.

4989.22. (a) Only persons who satisfy the requirements of Section 4989.20 are eligible to take the licensure examination.

(b) An applicant who fails the written examination may, within one year from the notification date of failure, retake the examination as regularly scheduled without further application. Thereafter, the applicant shall not be eligible for further examination until he or she files a new application, meets all current requirements, and pays all fees required.

(c) Notwithstanding any other provision of law, the board may destroy all examination materials two years after the date of an examination.

4989.24. The board shall not issue a license to a person who has been convicted of a crime in this or any other state or in a territory of the United States that involves sexual abuse of children or who is required to register pursuant to Section 290 of the Penal Code or the equivalent in another state or territory.

4989.26. The board may refuse to issue a license to an applicant if it appears he or she may be unable to practice safely due to mental illness or chemical dependency. The procedures set forth in Article 12.5 (commencing with Section 820) of Chapter 1 shall apply to a denial of a license pursuant to this section.

4989.28. The board may deny an application for licensure if the applicant is or has been guilty of unprofessional conduct as described in Section 4989.54.

Article 3. Renewal and Continuing Education

4989.30. A license issued under this chapter shall expire no later than 24 months after its date of issue. The expiration date of the original license shall be set by the board.

4989.32. To renew an unexpired license, the licensee shall, on or before the expiration date of the license, take all of the following actions:

- (a) Apply for renewal on a form prescribed by the board.
- (b) Pay a renewal fee prescribed by the board.
- (c) Inform the board of whether he or she has been convicted, as defined in Section 490, of any misdemeanor or felony and whether any disciplinary action has been taken by a regulatory or licensing board in this or any other state after the prior issuance or renewal of his or her license.
- (d) Complete the continuing education requirements described in Section 4989.34.

4989.34. (a) To renew his or her license, a licensee shall certify to the board, on a form prescribed by the board, completion in the preceding two years of not less than 60 hours of approved continuing education in, or relevant to, educational psychology.

(b) Notwithstanding subdivision (a), a licensee who possesses a current pupil personnel services credential issued on or after July 1, 1994, shall be exempt from the continuing education requirement.

(c) (1) The continuing education shall be obtained from either an accredited university or a continuing education provider approved by the board.

(2) The board shall establish, by regulation, a procedure for approving providers of continuing education courses, and all providers of continuing education shall comply with procedures established by the board. The board may revoke or deny the right of a provider to offer continuing education coursework pursuant to this section for failure to comply with the requirements of this section or any regulation adopted pursuant to this section.

(d) Training, education, and coursework by approved providers shall incorporate one or more of the following:

(1) Aspects of the discipline that are fundamental to the understanding or the practice of educational psychology.

(2) Aspects of the discipline of educational psychology in which significant recent developments have occurred.

(3) Aspects of other disciplines that enhance the understanding or the practice of educational psychology.

(e) The board may audit the records of a licensee to verify completion of the continuing education requirement. A licensee shall maintain records of the completion of required continuing education coursework for a minimum of two years and shall make these records available to the board for auditing purposes upon its request.

(f) The board may establish exceptions from the continuing education requirements of this section for good cause, as determined by the board.

(g) The board shall, by regulation, fund the administration of this section through continuing education provider fees to be deposited in the Behavioral Sciences Fund. The amount of the fees shall be sufficient to meet, but shall not exceed, the costs of administering this section.

(h) The continuing education requirements of this section shall comply fully with the guidelines for mandatory continuing education established by the Department of Consumer Affairs pursuant to Section 166.

4989.36. A licensee may renew a license that has expired at any time within five years after its expiration date by taking all of the actions described in Section 4989.32 and by paying all unpaid prior renewal fees and delinquency fees.

4989.38. A suspended license is subject to expiration as provided in this article and may be renewed, following the period of suspension, if the licensee takes all of the actions described in Section 4989.32.

4989.40. A revoked license is subject to expiration as provided in this article and shall not be renewed. The applicant may apply to the board for reinstatement of his or her license and shall pay a reinstatement fee in an amount equal to the renewal fee in effect at that time and any delinquency fees that may have accrued and comply with other requirements of the board for reinstatement.

4989.42. A license that is not renewed within five years after its expiration may not be renewed, restored, reinstated, or reissued thereafter. A licensee may apply for a new license if he or she satisfies all of the following requirements:

(a) No fact, circumstance, or condition exists that, if the license were issued, would constitute grounds for its revocation or suspension.

(b) Payment of the fees that would be required if he or she were applying for a license for the first time.

(c) Passage of the current licensure examination.

4989.44. (a) A licensee may apply to the board to request that his or her license be placed on inactive status.

(b) A licensee on inactive status shall be subject to this chapter and shall not engage in the practice of educational psychology in this state.

(c) A licensee who holds an inactive license shall pay a biennial fee of one-half of the amount of the standard renewal fee.

(d) A licensee on inactive status who has not committed an act or crime constituting grounds for denial of licensure may, upon request, restore his or her license to practice educational psychology to active status. A licensee requesting that his or her license be placed on active status between renewal cycles shall pay the remaining one-half of his or her renewal fee. A licensee requesting to restore his or her license to active status, whose

license will expire less than one year from the date of the request, shall complete 30 hours of continuing education as specified in Section 4989.34. A licensee requesting to restore his or her license to active status, whose license will expire more than one year from the date of the request, shall complete 60 hours of continuing education as specified in Section 4989.34.

Article 4. Regulation

4989.46. A licensee shall give written notice to the board of a name change within 30 days after each change, providing both the old and new names. A copy of the legal document authorizing the name change, such as a court order or marriage certificate, shall be submitted with the notice.

4989.48. A licensee shall display his or her license in a conspicuous place in the licensee's primary place of practice.

4989.50. Except as authorized by this chapter, it is unlawful for any person to practice educational psychology or use any title or letters that imply that he or she is a licensed educational psychologist unless, at the time of so doing, he or she holds a valid, unexpired, and unrevoked license issued under this chapter.

4989.52. All consideration, compensation, or remuneration received by the licensee shall be in relation to professional counseling services actually provided by the licensee. Nothing in this section shall prevent collaboration among two or more licensees in a case. However, no fee shall be charged for that collaboration, except when disclosure of the fee has been made to the client.

Article 5. Enforcement

4989.54. The board may deny a license or may suspend or revoke the license of a licensee if he or she has been guilty of unprofessional conduct. Unprofessional conduct includes, but is not limited to, the following:

(a) Conviction of a crime substantially related to the qualifications, functions and duties of an educational psychologist.

(1) The record of conviction shall be conclusive evidence only of the fact that the conviction occurred.

(2) The board may inquire into the circumstances surrounding the commission of the crime in order to fix the degree of discipline or to determine if the conviction is substantially related to the qualifications, functions, or duties of a licensee under this chapter.

(3) A plea or verdict of guilty or a conviction following a plea of nolo contendere made to a charge substantially related to the qualifications, functions, or duties of a licensee under this chapter shall be deemed to be a conviction within the meaning of this section.

(4) The board may order a license suspended or revoked, or may decline to issue a license when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal, or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under Section 1203.4 of the Penal Code allowing the person to withdraw a plea of guilty and enter a plea of not guilty or setting aside the verdict of guilty or dismissing the accusation, information, or indictment.

(b) Securing a license by fraud, deceit, or misrepresentation on an application for licensure submitted to the board, whether engaged in by an applicant for a license or by a licensee in support of an application for licensure.

(c) Administering to himself or herself a controlled substance or using any of the dangerous drugs specified in Section 4022 or an alcoholic beverage to the extent, or in a manner, as to be dangerous or injurious to himself or herself or to any other person or to the public or to the extent that the use impairs his or her ability to safely perform the functions authorized by the license.

(d) Conviction of more than one misdemeanor or any felony involving the use, consumption, or self-administration of any of the substances referred to in subdivision (c) or any combination thereof.

(e) Advertising in a manner that is false, misleading, or deceptive.

(f) Violating, attempting to violate, or conspiring to violate any of the provisions of this chapter or any regulation adopted by the board.

(g) Commission of any dishonest, corrupt, or fraudulent act substantially related to the qualifications, functions, or duties of a licensee.

(h) Denial of licensure, revocation, suspension, restriction, or any other disciplinary action imposed by another state or territory or possession of the United States or by any other governmental agency, on a license, certificate, or registration to practice educational psychology or any other healing art. A certified copy of the disciplinary action, decision, or judgment shall be conclusive evidence of that action.

(i) Revocation, suspension, or restriction by the board of a license, certificate, or registration to practice as a clinical social worker or marriage and family therapist.

(j) Failure to keep records consistent with sound clinical judgment, the standards of the profession, and the nature of the services being rendered.

(k) Gross negligence or incompetence in the practice of educational psychology.

(l) Misrepresentation as to the type or status of a license held by the licensee or otherwise misrepresenting or permitting misrepresentation of his or her education, professional qualifications, or professional affiliations to any person or entity.

(m) Intentionally or recklessly causing physical or emotional harm to any client.

(n) Engaging in sexual relations with a client or a former client within two years following termination of professional services, soliciting sexual relations with a client, or committing an act of sexual abuse or sexual misconduct with a client or committing an act punishable as a sexually related crime, if that act or solicitation is substantially related to the qualifications, functions, or duties of a licensed educational psychologist.

(o) Prior to the commencement of treatment, failing to disclose to the client or prospective client the fee to be charged for the professional services or the basis upon which that fee will be computed.

(p) Paying, accepting, or soliciting any consideration, compensation, or remuneration, whether monetary or otherwise, for the referral of professional clients.

(q) Failing to maintain confidentiality, except as otherwise required or permitted by law, of all information that has been received from a client in confidence during the course of treatment and all information about the client that is obtained from tests or other means.

(r) Performing, holding himself or herself out as being able to perform, or offering to perform any professional services beyond the scope of the license authorized by this chapter or beyond his or her field or fields of competence as established by his or her education, training, or experience.

(s) Reproducing or describing in public, or in any publication subject to general public distribution, any psychological test or other assessment device the value of which depends in whole or in part on the naivete of the subject in ways that might invalidate the test or device. An educational psychologist shall limit access to the test or device to persons with professional interests who can be expected to safeguard its use.

(t) Aiding or abetting an unlicensed person to engage in conduct requiring a license under this chapter.

(u) When employed by another person or agency, encouraging, either orally or in writing, the employer's or agency's clientele to utilize his or her private practice for further counseling without the approval of the employing agency or administration.

(v) Failing to comply with the child abuse reporting requirements of Section 11166 of the Penal Code.

(w) Failing to comply with the elder and adult dependent abuse reporting requirements of Section 15630 of the Welfare and Institutions Code.

4989.56. The board shall revoke the license of a licensee, other than one who is also licensed as a physician and surgeon, who uses or offers to use drugs in the course of his or her practice as an educational psychologist.

4989.58. The board shall revoke the license of a licensee upon a decision that contains a finding of fact that the licensee engaged in an act of sexual contact, as defined in Section 729, when that act is with a client, or with a former client and the

relationship was terminated primarily for the purpose of engaging in that act. The revocation shall not be stayed by the administrative law judge or the board.

4989.60. A person whose license has been suspended or revoked shall not, until the reinstatement of his or her license, engage in any activity to which the license relates or any other activity or conduct in violation of the order or judgment by which the license was suspended.

4989.62. All proceedings by the board to suspend, revoke, or to take other disciplinary action against a licensee shall be conducted pursuant to Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.

4989.64. In addition to other proceedings provided for in this chapter, whenever a person has engaged, or is about to engage, in an act or practice that constitutes, or will constitute, an offense against this chapter, the superior court in and for the county where the act or practice takes place, or is about to take place, may issue an injunction, or other appropriate order, restraining that conduct on application of the board, the Attorney General, or the district attorney of the county. The proceedings under this section shall be governed by Chapter 3 (commencing with Section 525) of Title 7 of Part 2 of the Code of Civil Procedure.

4989.66. A person who violates any of the provisions of this chapter is guilty of a misdemeanor.

Article 6. Revenue

4989.68. (a) The board shall assess the following fees relating to the licensure of educational psychologists:

(1) The application fee for examination eligibility shall be one hundred dollars (\$100).

(2) The fee for issuance of the initial license shall be a maximum amount of one hundred fifty dollars (\$150).

(3) The fee for license renewal shall be a maximum amount of one hundred fifty dollars (\$150).

(4) The delinquency fee shall be seventy-five dollars (\$75). A person who permits his or her license to become delinquent may have it restored only upon payment of all the fees that he or she

would have paid if the license had not become delinquent, plus the payment of any and all delinquency fees.

(5) The written examination fee shall be one hundred dollars (\$100). An applicant who fails to appear for an examination, once having been scheduled, shall forfeit any examination fees he or she paid.

(6) The fee for rescoring a written examination shall be twenty dollars (\$20).

(7) The fee for issuance of a replacement registration, license, or certificate shall be twenty dollars (\$20).

(8) The fee for issuance of a certificate or letter of good standing shall be twenty-five dollars (\$25).

(b) With regard to all license, examination, and other fees, the board shall establish fee amounts at or below the maximum amounts specified in this chapter.

4989.70. The board shall report each month to the Controller, the amount and source of all revenue received pursuant to this chapter and at the same time pay the entire amount thereof into the State Treasury for credit to the Behavioral Sciences Fund.

SEC. 21. Chapter 13.7 (commencing with Section 4990) is added to Division 2 of the Business and Professions Code, to read:

CHAPTER 13.7. BOARD OF BEHAVIORAL SCIENCES

Article 1. Administration

4990. (a) There is in the Department of Consumer Affairs, a Board of Behavioral Sciences that consists of 11 members composed as follows:

- (1) Two state licensed clinical social workers.
- (2) One state licensed educational psychologist.
- (3) Two state licensed marriage and family therapists.
- (4) Six public members.

(b) Each member, except the six public members, shall have at least two years of experience in his or her profession.

(c) Each member shall reside in the State of California.

(d) The Governor shall appoint four of the public members and the five licensed members with the advice and consent of the

Senate. The Senate Committee on Rules and the Speaker of the Assembly shall each appoint a public member.

(e) Each member of the board shall be appointed for a term of four years. A member appointed by the Speaker of the Assembly or the Senate Committee on Rules shall hold office until the appointment and qualification of his or her successor or until one year from the expiration date of the term for which he or she was appointed, whichever first occurs. Pursuant to Section 1774 of the Government Code, a member appointed by the Governor shall hold office until the appointment and qualification of his or her successor or until 60 days from the expiration date of the term for which he or she was appointed, whichever first occurs.

(f) A vacancy on the board shall be filled by appointment for the unexpired term by the authority who appointed the member whose membership was vacated.

(g) Not later than the first of June of each calendar year, the board shall elect a chairperson and a vice chairperson from its membership.

(h) Each member of the board shall receive a per diem and reimbursement of expenses as provided in Section 103.

(i) This section shall become inoperative on July 1, 2009, and, as of January 1, 2010, is repealed, unless a later enacted statute, that is enacted before January 1, 2010, deletes or extends the dates on which it becomes inoperative and is repealed.

4990.02. “Board,” as used in this chapter, Chapter 13 (commencing with Section 4980), Chapter 13.5 (commencing with Section 4989.10), and Chapter 14 (commencing with Section 4991) means the Board of Behavioral Sciences.

4990.04. (a) The board shall appoint an executive officer. This position is designated as a confidential position and is exempt from civil service under subdivision (e) of Section 4 of Article VII of the California Constitution.

(b) The executive officer serves at the pleasure of the board.

(c) The executive officer shall exercise the powers and perform the duties delegated by the board and vested in him or her by this chapter.

(d) With the approval of the director, the board shall fix the salary of the executive officer.

(e) The chairperson and executive officer may call meetings of the board and any duly appointed committee at a specified time

and place. For purposes of this section, “call meetings” means setting the agenda, time, date, or place for any meeting of the board or any committee.

(f) This section shall become inoperative on July 1, 2009, and, as of January 1, 2010, is repealed, unless a later enacted statute, that is enacted before January 1, 2010, deletes or extends the dates on which it becomes inoperative and is repealed.

4990.06. Subject to the State Civil Service Act (Part 2 (commencing with Section 18500) of Division 5 of Title 2 of the Government Code) and except as provided by Sections 155, 156, and 159.5, the board may employ any clerical, technical, and other personnel as it deems necessary to carry out the provisions of this chapter and the other chapters it administers and enforces, within budget limitations.

4990.08. The board shall keep an accurate record of all of its proceedings and a record of all applicants for licensure and all individuals to whom it has issued a license.

4990.10. The board may conduct research in, and make studies of problems involved in, the maintaining of professional standards among those engaged in the professions it licenses and may publish its recommendations thereon.

4990.12. The duty of administering and enforcing this chapter, Chapter 13 (commencing with Section 4980), Chapter 13.5 (commencing with Section 4989.10), and Chapter 14 (commencing with Section 4991) is vested in the board and the executive officer subject to, and under the direction of, the board. In the performance of this duty, the board and the executive officer have all the powers and are subject to all the responsibilities vested in, and imposed upon, the head of a department by Chapter 2 (commencing with Section 11150) of Part 1 of Division 3 of Title 2 of the Government Code.

4990.14. The board shall have and use a seal bearing the words “The Board of Behavioral Sciences,” and shall otherwise conform to Section 107.5.

4990.16. Protection of the public shall be the highest priority for the board in exercising its licensing, regulatory, and disciplinary functions. Whenever the protection of the public is inconsistent with other interests sought to be promoted, the protection of the public shall be paramount.

4990.18. It is the intent of the Legislature that the board employ its resources for each and all of the following functions:

(a) The licensure of marriage and family therapists, clinical social workers, and educational psychologists.

(b) The development and administration of licensure examinations and examination procedures consistent with prevailing standards for the validation and use of licensing and certification tests. Examinations shall measure knowledge and abilities demonstrably important to the safe, effective practice of the profession.

(c) Enforcement of laws designed to protect the public from incompetent, unethical, or unprofessional practitioners.

(d) Consumer education.

4990.20. (a) The board may adopt rules and regulations as necessary to administer and enforce the provisions of this chapter and the other chapters it administers and enforces. The adoption, amendment, or repeal of those rules and regulations shall be made in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

(b) The board may formulate and enforce rules and regulations requiring the following:

(1) That the articles of incorporation or bylaws of a marriage and family therapist or licensed clinical social worker corporation include a provision whereby the capital stock of that corporation owned by a disqualified person, as defined in the Moscone-Knox Professional Corporation Act (Part 4 (commencing with Section 13400) of Division 3 of Title 1 of the Corporations Code), or a deceased person shall be sold to the corporation or to the remaining shareholders of that corporation within the time that the rules and regulations may provide.

(2) That a marriage and family therapist corporation or a licensed clinical social worker corporation shall provide adequate security by insurance or otherwise for claims against it by its patients arising out of the rendering of professional services.

4990.22. (a) The Behavioral Sciences Fund shall be used for the purposes of carrying out and enforcing the provisions of this chapter.

(b) The board shall keep records that reasonably ensure that funds expended in the administration of each licensure or

registration category shall bear a reasonable relation to the revenue derived from each category and report to the department no later than May 31 of each year on those expenditures.

(c) Surpluses, if any, may be used by the board in a manner that bears a reasonable relation to the revenue derived from each licensure or registration category and may include, but not be limited to, expenditures for education and research related to each of the licensing or registration categories.

4990.24. The powers and duties of the board, as set forth in this chapter, shall be subject to the review required by Division 1.2 (commencing with Section 473).

4990.26. Wherever “Board of Behavioral Science Examiners,” “Board of Social Work Examiners of the State of California,” or “Social Worker and Marriage Counselor Qualifications Board of the State of California” is used in any law or regulations of this state, it shall mean the Board of Behavioral Sciences.

Article 2. Disciplinary Actions

4990.28. The board may refuse to issue a registration or license under the chapters it administers and enforces whenever it appears that the applicant may be unable to practice his or her profession safely due to mental illness or chemical dependency. The procedures set forth in Article 12.5 (commencing with Section 820) of Chapter 1 shall apply to denial of a license or registration pursuant to this section.

4990.30. (a) A licensed marriage and family therapist, marriage and family therapist intern, licensed clinical social worker, associate clinical social worker, or licensed educational psychologist whose license or registration has been revoked, suspended, or placed on probation, may petition the board for reinstatement or modification of the penalty, including modification or termination of probation. The petition shall be on a form provided by the board and shall state any facts and information as may be required by the board including, but not limited to, proof of compliance with the terms and conditions of the underlying disciplinary order. The petition shall be verified by the petitioner who shall file an original and sufficient copies of the petition, together with any supporting documents, for the

members of the board, the administrative law judge, and the Attorney General.

(b) The licensee or registrant may file the petition on or after the expiration of the following timeframes, each of which commences on the effective date of the decision ordering the disciplinary action or, if the order of the board, or any portion of it, is stayed by the board itself or by the superior court, from the date the disciplinary action is actually implemented in its entirety:

(1) Three years for reinstatement of a license or registration that was revoked for unprofessional conduct, except that the board may, in its sole discretion, specify in its revocation order that a petition for reinstatement may be filed after two years.

(2) Two years for early termination of any probation period of three years or more.

(3) One year for modification of a condition, reinstatement of a license or registration revoked for mental or physical illness, or termination of probation of less than three years.

(c) The petition may be heard by the board itself or the board may assign the petition to an administrative law judge pursuant to Section 11512 of the Government Code.

(d) The petitioner may request that the board schedule the hearing on the petition for a board meeting at a specific city where the board regularly meets.

(e) The petitioner and the Attorney General shall be given timely notice by letter of the time and place of the hearing on the petition and an opportunity to present both oral and documentary evidence and argument to the board or the administrative law judge.

(f) The petitioner shall at all times have the burden of production and proof to establish by clear and convincing evidence that he or she is entitled to the relief sought in the petition.

(g) The board, when it is hearing the petition itself, or an administrative law judge sitting for the board, may consider all activities of the petitioner since the disciplinary action was taken, the offense for which the petitioner was disciplined, the petitioner's activities during the time his or her license or registration was in good standing, and the petitioner's

rehabilitative efforts, general reputation for truth, and professional ability.

(h) The hearing may be continued from time to time as the board or the administrative law judge deems appropriate but in no case may the hearing on the petition be delayed more than 180 days from its filing without the consent of the petitioner.

(i) The board itself, or the administrative law judge if one is designated by the board, shall hear the petition and shall prepare a written decision setting forth the reasons supporting the decision. In a decision granting a petition reinstating a license or modifying a penalty, the board itself, or the administrative law judge, may impose any terms and conditions that the agency deems reasonably appropriate, including those set forth in Sections 823 and 4990.40. If a petition is heard by an administrative law judge sitting alone, the administrative law judge shall prepare a proposed decision and submit it to the board. The board may take action with respect to the proposed decision and petition as it deems appropriate.

(j) The petitioner shall pay a fingerprinting fee and provide a current set of his or her fingerprints to the board. The petitioner shall execute a form authorizing release to the board or its designee, of all information concerning the petitioner's current physical and mental condition. Information provided to the board pursuant to the release shall be confidential and shall not be subject to discovery or subpoena in any other proceeding, and shall not be admissible in any action, other than before the board, to determine the petitioner's fitness to practice as required by Section 822.

(k) The board may delegate to its executive officer authority to order investigation of the contents of the petition.

(l) No petition shall be considered while the petitioner is under sentence for any criminal offense, including any period during which the petitioner is on court-imposed probation or parole or the petitioner is required to register pursuant to Section 290 of the Penal Code. No petition shall be considered while there is an accusation or petition to revoke probation pending against the petitioner.

(m) Except in those cases where the petitioner has been disciplined for violation of Section 822, the board may in its discretion deny without hearing or argument any petition that is

filed pursuant to this section within a period of two years from the effective date of a prior decision following a hearing under this section.

4990.32. (a) Except as otherwise provided in this section, an accusation filed pursuant to Section 11503 of the Government Code against a licensee or registrant under the chapters the board administers and enforces shall be filed within three years from the date the board discovers the alleged act or omission that is the basis for disciplinary action or within seven years from the date the alleged act or omission that is the basis for disciplinary action occurred, whichever occurs first.

(b) An accusation filed against a licensee alleging the procurement of a license by fraud or misrepresentation is not subject to the limitations set forth in subdivision (a).

(c) The limitations period provided by subdivision (a) shall be tolled for the length of time required to obtain compliance when a report required to be filed by the licensee or registrant with the board pursuant to Article 11 (commencing with Section 800) of Chapter 1 is not filed in a timely fashion.

(d) An accusation alleging sexual misconduct shall be filed within three years after the board discovers the act or omission alleged as the grounds for disciplinary action or within 10 years after the act or omission alleged as the grounds for disciplinary action occurred, whichever occurs first. This subdivision shall apply to a complaint alleging sexual misconduct received by the board on and after January 1, 2002.

(e) If an alleged act or omission involves a minor, the seven-year limitations period provided for by subdivision (a) and the 10-year limitations period provided for by subdivision (d) shall be tolled until the minor reaches the age of majority.

(f) The limitations period provided by subdivision (a) shall be tolled during any period if material evidence necessary for prosecuting or determining whether a disciplinary action would be appropriate is unavailable to the board due to an ongoing criminal investigation.

(g) For purposes of this section, “discovers” means the latest of the occurrence of any of the following with respect to each act or omission alleged as the basis for disciplinary action:

(1) The date the board received a complaint or report describing the act or omission.

(2) The date, subsequent to the original complaint or report, on which the board became aware of any additional acts or omissions alleged as the basis for disciplinary action against the same individual.

(3) The date the board receives from the complainant a written release of information pertaining to the complainant's diagnosis and treatment.

4990.34. (a) The board may place a license or registration issued under the chapters it administers and enforces on probation under the following circumstances:

(1) In lieu of, or in addition to, any order of the board suspending or revoking the license or registration.

(2) Upon the issuance of a license or registration to an individual who has been guilty of unprofessional conduct but who otherwise completed all education, training, and experience required for licensure or registration.

(3) As a condition upon the reissuance or reinstatement of a license or registration that has been suspended or revoked by the board.

(b) The board may adopt regulations establishing a monitoring program to ensure compliance with any terms or conditions of probation imposed by the board pursuant to subdivision (a). The cost of probation or monitoring may be ordered to be paid by the licensee or registrant.

4990.36. The board, in its discretion, may require a licensee or registrant whose license or registration has been placed on probation or whose license or registration has been suspended, to obtain additional professional training and to pass an examination upon completion of that training and to pay any necessary examination fee. The examination may be written, oral, or a practical or clinical examination.

4990.38. The board may deny an application or may suspend or revoke a license or registration issued under the chapters it administers and enforces for any disciplinary action imposed by another state or territory or possession of the United States, or by a governmental agency on a license, certificate or registration to practice marriage and family therapy, clinical social work, educational psychology or any other healing art. The disciplinary action, which may include denial of licensure or revocation or suspension of the license or imposition of restrictions on it,

constitutes unprofessional conduct. A certified copy of the disciplinary action decision or judgment shall be conclusive evidence of that action.

4990.40. The board shall revoke a license or registration issued under the chapters it administers and enforces upon a decision made in accordance with the procedures set forth in Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, that contains a finding of fact that the licensee or registrant engaged in an act of sexual contact, as defined in Section 729, when that act is with a patient or with a former patient when the relationship was terminated primarily for the purpose of engaging in that act. The revocation shall not be stayed by the administrative law judge or the board.

4990.42. The proceedings under this article shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.

SEC. 22. Article 1 (commencing with Section 4990) of Chapter 14 of Division 2 of the Business and Professions Code is repealed.

SEC. 23. Section 4991 is added to the Business and Professions Code, to read:

4991. This chapter shall be known, and may be cited, as the Clinical Social Worker Practice Act. It shall be liberally construed to effect its objectives.

SEC. 24. Section 4991.2 is added to the Business and Professions Code, to read:

4991.2. “Accredited school of social work,” within the meaning of this chapter, is a school that is accredited by the Commission on Accreditation of the Council on Social Work Education.

SEC. 25. Section 4992.31 of the Business and Professions Code is repealed.

SEC. 26. The heading of Article 4 (commencing with Section 4996) of Chapter 14 of Division 2 of the Business and Professions Code is amended to read:

Article 4. Licensure

SEC. 27. Section 4996.17 of the Business and Professions Code is amended to read:

4996.17. (a) Experience gained outside of California shall be accepted toward the licensure requirements if it is substantially the equivalent of the requirements of this chapter.

(b) The board may issue a license to any person who, at the time of application, has held a valid active clinical social work license, issued by a board of clinical social work examiners or corresponding authority of any state, if the person passes the board administered licensing examinations as specified in Section 4996.1 and pays the required fees. Issuance of the license is conditioned upon all of the following:

(1) The applicant has supervised experience that is substantially the equivalent of that required by this chapter. If the applicant has less than 3200 hours of qualifying supervised experience, time actively licensed as a clinical social worker shall be accepted at a rate of 100 hours per month up to a maximum of 1200 hours.

(2) Completion of the following coursework or training in or out of this state:

(A) A minimum of seven contact hours of training or coursework in child abuse assessment and reporting as specified in Section 28, and any regulations promulgated thereunder.

(B) A minimum of 10 contact hours of training or coursework in human sexuality as specified in Section 25, and any regulations promulgated thereunder.

(C) A minimum of 15 contact hours of training or coursework in alcoholism and other chemical substance dependency, as specified by regulation.

(D) A minimum of 15 contact hours of coursework or training in spousal or partner abuse assessment, detection, and intervention strategies.

(3) The applicant's license is not suspended, revoked, restricted, sanctioned, or voluntarily surrendered in any state.

(4) The applicant is not currently under investigation in any other state, and has not been charged with an offense for any act substantially related to the practice of social work by any public agency, entered into any consent agreement or been subject to an administrative decision that contains conditions placed by an agency upon an applicant's professional conduct or practice,

including any voluntary surrender of license, or been the subject of an adverse judgment resulting from the practice of social work that the board determines constitutes evidence of a pattern of incompetence or negligence.

(5) The applicant shall provide a certification from each state where he or she holds a license pertaining to licensure, disciplinary action, and complaints pending.

(6) The applicant is not subject to denial of licensure under Sections 480, 4992.3, 4992.35, or 4992.36.

(c) The board may issue a license to any person who, at the time of application, has held a valid, active clinical social work license for a minimum of four years, issued by a board of clinical social work examiners or a corresponding authority of any state, if the person passes the board administered licensing examinations as specified in Section 4996.1 and pays the required fees. Issuance of the license is conditioned upon all of the following:

(1) Completion of the following coursework or training in or out of state:

(A) A minimum of seven contact hours of training or coursework in child abuse assessment and reporting as specified in Section 28, and any regulations promulgated thereunder.

(B) A minimum of 10 contact hours of training or coursework in human sexuality as specified in Section 25, and any regulations promulgated thereunder.

(C) A minimum of 15 contact hours of training or coursework in alcoholism and other chemical substance dependency, as specified by regulation.

(D) A minimum of 15 contact hours of coursework or training in spousal or partner abuse assessment, detection, and intervention strategies.

(2) The applicant has been licensed as a clinical social worker continuously for a minimum of four years prior to the date of application.

(3) The applicant's license is not suspended, revoked, restricted, sanctioned, or voluntarily surrendered in any state.

(4) The applicant is not currently under investigation in any other state, and has not been charged with an offense for any act substantially related to the practice of social work by any public agency, entered into any consent agreement or been subject to an

administrative decision that contains conditions placed by an agency upon an applicant's professional conduct or practice, including any voluntary surrender of license, or been the subject of an adverse judgment resulting from the practice of social work that the board determines constitutes evidence of a pattern of incompetence or negligence.

(5) The applicant provides a certification from each state where he or she holds a license pertaining to licensure, disciplinary action, and complaints pending.

(6) The applicant is not subject to denial of licensure under Section 480, 4992.3, 4992.35, or 4992.36.

SEC. 28. Section 4998.6 of the Business and Professions Code is repealed.

SEC. 29. Section 4999 of the Business and Professions Code is amended to read:

4999. (a) Any business entity that employs, or contracts or subcontracts, directly or indirectly, with, the full-time equivalent of five or more persons functioning as health care professionals, whose primary function is to provide telephone medical advice, that provides telephone medical advice services to a patient at a California address shall be registered with the Telephone Medical Advice Services Bureau.

(b) A medical group that operates in multiple locations in California shall not be required to register pursuant to this section if no more than five full-time equivalent persons at any one location perform telephone medical advice services and those persons limit the telephone medical advice services to patients being treated at that location.

(c) Protection of the public shall be the highest priority for the bureau in exercising its registration, regulatory, and disciplinary functions. Whenever the protection of the public is inconsistent with other interests sought to be promoted, the protection of the public shall be paramount.

SEC. 30. Section 4999.1 of the Business and Professions Code is amended to read:

4999.1. Application for registration as an in-state or out-of-state telephone medical advice service shall be made on a form prescribed by the department, accompanied by the fee prescribed pursuant to Section 4999.5. The department shall

make application forms available. Applications shall contain all of the following:

(a) The signature of the individual owner of the in-state or out-of-state telephone medical advice service, or of all of the partners if the service is a partnership, or of the president or secretary if the service is a corporation. The signature shall be accompanied by a resolution or other written communication identifying the individual whose signature is on the form as owner, partner, president, or secretary.

(b) The name under which the person applying for the in-state or out-of-state telephone medical advice service proposes to do business.

(c) The physical address, mailing address, and telephone number of the business entity.

(d) The designation, including the name and physical address, of an agent for service of process in California.

(e) A list of all in-state or out-of-state staff providing telephone medical advice services that are required to be licensed, registered, or certified pursuant to this chapter. This list shall be submitted to the department on a quarterly basis on a form to be prescribed by the department and shall include, but not be limited to, the name, address, state of licensure, category of license, and license number.

(f) The department shall be notified within 30 days of any change of name, physical location, mailing address, or telephone number of any business, owner, partner, corporate officer, or agent for service of process in California, together with copies of all resolutions or other written communications that substantiate these changes.

SEC. 31. Section 4999.4 of the Business and Professions Code is amended to read:

4999.4. (a) Every registration issued to a telephone medical advice service shall expire 24 months after the initial date of issuance.

(b) To renew an unexpired registration, the registrant shall, before the time at which the license registration would otherwise expire, apply for renewal on a form prescribed by the bureau, and pay the renewal fee authorized by Section 4999.5.

(c) A registration that is not renewed within three years following its expiration shall not be renewed, restored, or

reinstated thereafter, and the delinquent registration shall be canceled immediately upon expiration of the three-year period. An expired registration may be renewed at any time within three years after its expiration upon the filing of an application for renewal on a form prescribed by the bureau and the payment of all fees authorized by Section 4999.5.

SEC. 32. Section 4999.8 of the Business and Professions Code is repealed.

SEC. 33. Section 4999.9 of the Business and Professions Code is repealed.

SEC. 34. The amendments made to subdivision (d) of Section 2533 of the Business and Professions Code in the 2006–07 Regular Session of the Legislature are declaratory of existing law and shall not be applied in any way that would infringe on rights guaranteed under the Constitution of the United States or the Constitution of California.

SEC. 35. Section 1.5 of this bill incorporates amendments to Section 725 of the Business and Professions Code proposed by both this bill and AB 2198. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2007, (2) each bill amends Section 725 of the Business and Professions Code, and (3) this bill is enacted after 2198, in which case Section 1 of this bill shall not become operative.

SEC. 36. Section 14.5 of this bill incorporates amendments to Section 4190 of the Business and Professions Code proposed by both this bill and AB 2308. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2007, (2) each bill amends Section 4190 of the Business and Professions Code, and (3) this bill is enacted after AB 2308, in which case Section 14 of this bill shall not become operative.

SEC. 37. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

Approved _____, 2006

Governor